IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 2134 of 2003(O&M)
Date of decision: February 15,2007

Ajmer Singh V. Inder Singh and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri J.S.Toor,Advocate, for the appellant.
Shri Amarjit Markan,Advocate,for the respondents.

Viney Mittal,J.

A suit for declaration and for permanent injunction filed by the plaintiffs, was dismissed by the trial Court. However, on an appeal filed by the plaintiffs, the judgment and decree of the trial court were set aside by the first appellate court and the suit of the plaintiffs was decreed. It is, in these circumstances, that defendant No.1,Ajmer Singh, is in second appeal before this court.

Plaintiffs, Inder Singh and Pritam Singh sons of Amar Singh filed a suit for declaration that they along with defendant no.3, their brother are the owners in possession of the land measuring 43 bighas 18 biswas. A permanent injunction was sought against defendants No.1 and 2 from alienating the suit land, in any manner, and from forcibly dispossessing the plaintiffs.

Plaintiffs pleaded that Kheon Singh, father of defendant No.1 and one Bhagwan Kaur were owners of the land. Consolidation of holdings took place in the village. In the Consolidation proceedings separate land was allotted in favour of Bhagwan Kaur. Plaintiffs maintained that through a registered sale deed dated July 30,1958, Bhagwan Kaur sold the land in question to Amar Singh, father of plaintiffs and defendant No.3 and thereafter Amar Singh

and after his death, plaintiffs and defendant No.3 have become the owners in possession of the suit land and defendants No.1 and 2 have no right, title or interest in the suit land. It was claimed that the plaintiffs have become owners of the suit property by way of adverse possession also.

Suit was contested by defendant No.1, Ajmer Singh. He claimed that Kheon Singh, his father, was exclusive owner of the land in question and Bhagwan Kaur had no share in the same and mutation entered after the consolidation proceedings was wrong and had even been corrected by the Consolidation Authorities on December 29,1967. Ajmer Singh maintained that plaintiffs were never in possession of the suit property and the sale deed alleged to have been executed by Bhagwan Kaur was of no consequence.

Defendant No.2, Bhagwan Kaur filed a separate written statement. She denied having executed any sale deed in favour of Amar Singh and alleged that the said sale deed was forged and fabricated.

The trial court dismissed the suit filed by the plaintiffs.

The matter was taken up in appeal before the first appellate court. The first appellate Court re-examined the entire evidence. The first appellate court held that Kheon Singh and Naginder Singh were owners of the suit land. After the death of Naginder Singh, mutation of inheritance was sanctioned in favour of his brother Kheon Singh but Bhagwan Kaur @ Jai Kaur filed a suit for declaration. The said suit was dismissed by the trial court. Her first appeal also failed. However, her second appeal was allowed by Pepsu High Court and her suit was decreed. A review petition filed by Ajmer Singh was also dismissed by the High Court. In execution of the decree , Bhagwan Kaur obtained possession of the suit land.

The first appellate court also noticed that thereafter consolidation proceedings took place in the village but the dispute between Bhagwan Kaur and Ajmer Singh persisted. In these circumstances, before the consolidation proceedings were finalised, Ajmer Singh and Bhagwan Kaur, who had been litigating for a number of years, thought it fit to compromise the dispute with the intervention of Samjauta Board Nagar Panchayat, Fatehgarh, Panjgarian. In the aforesaid compromise, land measuring 43 bighas 18 biswas fell to the share of Bhagwan Kaur and the remaining land measuring 45 bighas 18 biswas fell to the share of Ajmer Singh. In this regard resolutions Ex.P2 and P3 were written in the register Karwahi of Samjauta Board and even thumb marked by Bhagwan Kaur and signed by Ajmer Singh and other members of the Board. The land which Bhagwan Kaur had, thus, owned was latter on sold by her to Amar Singh for Rs.6000/- vide sale deed Ex.P1. Consequently, ownership of Bhagwan Kaur and the validity of the sale deed executed by her in favour of Amar Singh was upheld by the appellate Court. Consequently, the appeal filed by the plaintiffs was allowed and their suit was decreed.

Shri J.S.Toor, learned counsel appearing for the defendant-appellant,Ajmer Singh has contended that Bhagwan Kaur could not be treated to be the owner of the suit property inasmuch as resolutions Ex.P2 and Ex.P3 passed by Samjauta Board could not be treated to be legal and valid inasmuch as immovable property worth Rs.100/- had been transferred to Bhagwan Kaur for the first time and, therefore no valid title could be deemed to have been conferred upon her. Learned counsel maintains that once Bhagwan Kaur was not owner of the suit property, then she could not have executed any valid sale deed in favour of the plaintiffs.

However, I do not find any merit in the aforesaid contention of learned counsel. The appellate court has discussed in detail the entire evidence. The history of long drawn litigation between Bhagwan Kaur and Ajmer Singh has been noticed. It has been noticed that in consolidation proceedings the matter was compromised between Ajmer Singh and Bhagwan Kaur. Thereafter resolutions Ex.P2 and Ex.P3 were written in the Karwahi register of Samjauta Board. The aforesaid resolutions have been rightly treated to be in the nature of family settlement between the parties without requiring any registration.

Consequently, once Bhagwan Kaur was held to be owner of the suit property after consolidation, then she had validly executed the sale deed in favour of the plaintiffs.

I do not find that various findings recorded by the first appellate court suffer from any infirmity or can be held to be contrary to record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

February 15,2007 (Viney Mittal)
sks Judge